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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/773,118

02/04/2004

Paul V. Cooper

23438.00043

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08/18/2008

SQUIRE SANDERS & DEMPSEY LLP

TWO RENAISSANCE SQUARE, 40 NORTH CENTRAL AVENUE

SUITE 2700

PHOENIX, AZ 85004-4498

EXAMINER

KASTLER, SCOTT R

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

08/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/773,118

Applicant(s)

COOPER, PAUL V.

Examiner

Scott Kastler

Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-7 and 19-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-13 and 15-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Claims 8-18 (Group II) in the reply filed on 11/20/2007 is acknowledged.

Claims 1-7 and 19-25 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/20/2007.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8-10, 12, 13 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Cooper 5,203,681 (Cooper'681). Cooper'681 teaches a molten metal pump (10) including a pump base with gas and metal transfer conduits, and a superstructure (26) supported by a plurality of support posts (24) of equal height which are connected at their top portions to the superstructure (26) through the use of throughbolts (312) extending through throughbolt holes (310) in the support posts, thereby showing all aspects of the above claims.

Claims 8-10, 12, 13 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Cooper 5,330,328 (Cooper'328). Cooper'328 teaches a molten metal pump (10) including a pump base with gas and metal transfer conduits, and a superstructure (26) supported by a plurality of support posts (24) of equal height which are connected at their top portions to the superstructure (26) through the use of throughbolts (312) extending through throughbolt holes (310) in the support posts, thereby showing all aspects of the above claims.

Claims 8-11, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Cooper 6,398,525 B1 (Cooper'525). Cooper'525 teaches a molten metal pump (10) including a pump base with gas and metal transfer conduits, and a superstructure (20) supported by a plurality of support posts (34) of equal height which are connected at their top portions to the superstructure (20) through the use of clamps on the support posts rather than throughbolt holes (see figure 1 for example), thereby showing all aspects of the above claims.

Claims 8-11, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Cooper 6,303,074 B1 (Cooper'074). Cooper'074 teaches a molten metal pump (10) including a pump base with gas and metal transfer conduits, and a superstructure (20) supported by a plurality of support posts (30) of equal height which are connected at their top portions to the superstructure (20) through the use of clamps (32) on the support posts rather than throughbolt holes (see figure 1 for example), thereby showing all aspects of the above claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over either of Cooper'328 or Cooper'681. As applied to claim 14 above, each of Cooper'328 or Cooper'681 show all aspects of the above claims except to specifically teach that the throughbolt hole has a diameter of greater than $1/32''$ more than the diameter of the throughbolt. However, since the throughbolt systems of each of Cooper'328 or Cooper'681 and that of the above claim operate in substantially the same manner with substantially the same results, motivation to employ any equally useful throughbolt hole diameter, as long as it is large enough to receive the throughbolt, as also required by each of Cooper'328 or Cooper'681, would have been a modification obvious to one of ordinary skill in the art at the time the invention was made. Since it has been well settled that motivation to alter the size or shape of a component (the throughbolt hole) shown by the prior art without materially altering the operation of the component or apparatus, would have been a modification obvious to one of ordinary skill in the art at the time the invention was made. See MPEP 2144.04 IV A and B.

Response to Arguments

Applicant's arguments filed on 6/2/2008 have been fully considered but they are not persuasive. Applicant's argument that the Cooper references do not show support posts of substantially similar height is not persuasive at least because the term "substantially similar" is

not the same as identical or the same height, but would also include posts that are in any way nearly the same height even if there is a height difference, and the drawings, while not able to provide support for exact dimensions are suitable for general proportions of elements and are clearly able to support a showing of posts of "substantially similar" heights, since this term allows for significant variation in the post heights. Further, since the superstructures of the applied references are all supported horizontally, the support posts which support the superstructures must be of substantially similar heights. Applicant's further argument that the applied references do not support the superstructures by the support post tops is not persuasive because the support posts of the applied references support the superstructures in the same manner as that instantly disclosed by the instant specification (through the use of brackets attached to the support post top ends), and the support posts of the instant specification are stated to support the superstructure with their tops.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (571) 272-1243. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott Kastler/
Primary Examiner, Art Unit 1793

sk